

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET

SACRAMENTO, CA 95814-5512

February 10, 2003

Dear Retail Provider:

Subject: Power Source Disclosure and Customer Credit Program's Annual Reporting Requirements

This letter has been sent to individuals or entities on the mailing lists for the Power Source Disclosure Program and the Customer Credit Program. As someone involved with these programs you are probably familiar with the general statutory and regulatory requirements of SB 1305 (Stats. 1997, ch.796, § 1) and implementing regulations regarding retail disclosure. All retail providers of electricity including, but not limited to investor-owned utilities, publicly owned electric utilities, electric service providers, irrigation districts, and cooperatives that serve California consumers are subject to provisions mandating disclosure of fuel mix information to consumersⁱ. Although the Energy Commission's Customer Credit Program did not make payments for 2002 activity, Electric Service Providers who would normally participate in this program and served customers in 2002 are still subject to these requirements. Every retail provider that sells electricity that is consumed in California and makes any claims that identify any of its electricity sources as different than net system power shall disclose these sources as specific purchasesⁱⁱ, and is subject to additional requirements. **The purpose of this letter is to inform you of the following:**

- 1. Copies of your Quarterly Power Content Labels for 2002 are due to the Energy Commission by March 1, 2003.**
- 2. Additional requirements are placed on those of you that made claims of specific purchases in 2002. This letter provides you with information and guidance regarding the annual reporting requirements and to alert you to the upcoming report filing dates:**

Report/Filing**Submit No Later Than**

2002 Annual Retail Providers Report

March 1, 2003

2002 Quarterly Power Content Labels

March 1, 2003

2002 Annual Power Content Label (to customers)

April 15, 2003

Independent Audit/Verification of 2002 Annual
Power Content Label and Annual Report

June 2, 2003

The Annual Report Filing

Section 398.5 of the Public Utilities Code and Section 1394 of Title 20 of the California Code of Regulations require retail providers that claim specific purchases pursuant to Section 398.4 to submit an annual report to the Energy Commission starting March 1, 1999. Retail providers are required to submit these reports annually for each electricity product offered during the previous calendar year for which a claim was made.

Combining the requirements contained in the Public Utilities Code and the California Code of Regulations, the Annual Report must contain the following information:

1. The Registered Electric Service Provider Identification Number as assigned by either the Public Utilities Commission or the Energy Commission. The Energy Commission's assigned number is available on their web site at http://www.energy.ca.gov/sb1305/provider_numbers.html.
2. The kilowatt-hours *purchased or generated*, by generating facility and fuel type during the previous calendar year, consistent with the meter data, reported to the system operator.*
3. For each electricity product offered for sale in California, the kilowatt-hours sold at retail during the previous calendar year.
4. For each electricity product offered for sale in California, a sample of each general disclosure provided to consumers (pursuant to section 1393 of the regulations) during the previous calendar year if not already docketed at the Energy Commission.

*Retail providers that purchase electricity from a power pool that submits an Annual Report to the Energy Commission may provide this information by reference to the date and title of that filing submitted by the specified power pool.

The regulations require that each generating facility be identified using the identification number provided by U. S. Energy Information Administration (EIA) or, in the case that such an ID number does not exist, an identification number provided by the Energy Commission (Energy Commission Renewable Energy Program registration number, and/or Qualifying Facility (QF) number).

The regulations further require that this information be provided electronically, in a tabular spreadsheet or database format that allows identification of separate fields or cells for the information by product, generating facility, and fuel type. Finally, the regulations require each retail provider that makes a claim of specific purchases to provide an attestation, signed under penalty of perjury, that the kilowatt hours claimed by the retail provider as specific purchases during the previous calendar year were sold once and only once to retail consumers. Because there have been several questions regarding this matter, we would like to emphasize that **only retail providers that made claims of specific purchases during the 2002 calendar year must submit an Annual Report by March 1, 2003.**

However, all retail providers must submit copies of their quarterly labels to the Energy Commission. If you have any doubt about whether your company should submit one of these reports, please call us at one of the numbers listed at the end of this letter. Although the Energy Commission's Customer Credit Program has not accepted Monthly Performance Reports for 2002, retail providers who have made claims of specific purchases during the 2002 calendar year are still required to submit a 2002 Annual Report and copies of all four quarterly labels for 2002.

The recommended format for the Annual Report (including the form for the attestation) is available as an Excel file that can be downloaded from the Energy Commission's Web Site at: <http://www.energy.ca.gov/sb1305/>. Simply download the file off the Internet, enter the relevant information in the spaces indicated, and e-mail the completed forms file to sb1305@energy.state.ca.us by March 1, 2003. Because the filing also contains an attestation, please mail a copy of the filing including the signed the attestation to:

Jason J. Orta
Dockets 00-SB-1305
California Energy Commission
1516 9th Street, MS-4
Sacramento, CA 95814

The Dockets Office of the California Energy Commission must receive the original copies of the forms that were filed electronically by 4:00 p.m., March 10, 2003.

If your company does not have Internet access but would like an electronic copy of the file, you can obtain an electronic copy of the spreadsheet by submitting a written request to Jason Orta at the address above and you can include the electronic file with your filing. Late requests will not change the required filing date of March 1, 2003.

If your company does not possess a recent copy of Excel (version 5.0 or later) or otherwise cannot file electronically, the Energy Commission will waive the requirement that the report be submitted in an electronic format and accept paper copies of the completed forms with your filing. The recently revised forms are enclosed and additional copies are available upon request. To meet the March 1, 2003 filing date, a copy of the Annual Report may be faxed to Jason Orta at (916) 653-2543. Copies of the Annual Report may be faxed as long as the original copy of the Annual Report, including the signed attestation, follows by mail and is received at the California Energy Commission Docket Office by 4:00 p.m., March 10, 2003.

The Annual Power Content Label

Retail providers are required to provide their customers with a power content label containing an annual disclosure for each electricity product for which the provider made a claim of specific purchases during the previous calendar year. This annual disclosure must be provided to customers by April 15 each calendar year using a format specified

in the Energy Commission's regulations. Copies of the label are also to be filed with the Dockets Office. The address for the Energy Dockets office is listed earlier in this letter. More information about the format and content requirements for the Annual Power Content Label can be found in either the Energy Commission regulations or the "Retail Disclosure in Plain English" document on the Energy Commission's web site at http://www.energy.ca.gov/regulations/retail_disclosure.html.

The Independent Verification Process

In an effort to ensure the accuracy of marketing claims to consumers and to prevent the misuse of public funds, the Energy Commission's regulations require program participants to have their electricity purchases and sales independently verified. Current regulations require an independent "audit" of the Annual Power Content Label and the Annual Report by June 1 each calendar year. In general, the regulations require the auditor to audit the following:

1. the fuel types used by each generating facility identified in the Annual Report,
2. contracts and/or certificates of specific generation necessary to trace sale of electricity from the generator to the retailer, and
3. retail sales to consumers, to verify the accuracy of both the annual fuel mix disclosed to customers and the Annual Report.

The regulations also require an independent "audit" of any renewable power pool that is referenced in a retail provider's Annual Report in lieu of a specific generator.

The Energy Commission has amended its regulations to use a set of "agreed-upon procedures" intended to meet the verification requirements. The agreed-upon procedures are essentially a set of instructions or protocols expected to guide the accountant through the necessary verification process. (In 2001, the agreed-upon procedures, were updated to simplify and coordinate the common verification and reporting requirements of SB 1305 (Power Source Disclosure) and SB 90 (Customer Credit) program for participants. Following receipt of the Annual Audit in June 2003, the Energy Commission will prepare a Reconciliation Report that is submitted to the California Public Utilities Commission in October. The Reconciliation Report compares the level of Specific Purchase Claims to the actual level of generation by generating source. This public document also allows for an assessment of the level of compliance of Electric Service Providers with California's Power Source Disclosure regulations along with verification that retail providers are meeting claims made to their customers.

I hope that this letter has been an effective reminder of the upcoming reporting requirements. As always, Energy Commission staff is available to answer any of your questions. Questions regarding the reporting requirements and the Customer Credit Subaccount should be directed to Jason Orta at (916) 653-5851, or jorta@energy.state.ca.us.

Sincerely,

Jason J. Orta
Power Source Disclosure Program
Energy Technology Development Division

Enclosures (2)

ⁱ For a description of the retail disclosure requirements in the Public Utilities Code and the California Code of Regulations, look for the "Retail Disclosure in Plain English" document on the Energy Commission's Web Site or contact the Energy Commission at the phone number / e-mail address given at the end of this letter.

ⁱⁱ Specific purchases are defined as "electricity transactions which are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer." (Public Utilities Code, Section 398.1(b))

A "claim of specific purchases" or a "claim that identifies any of a retail provider's electricity sources as different from net system power" is defined as "...any statement that is made to consumers by a retail provider for the purpose of marketing any electricity product and that contains either:

- (1) a reference to use of an eligible renewable to generate, in part or in whole, the electricity product offered for sale by the retail provider, other than disclosure of net system power; or
- (2) a statement that a specific attribute of the electricity product related to the generator creates an environmental effect."

(Title 20, California Code of Regulations, section 1391 as amended, November, 2000)